

**MINUTES OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**  
Tuesday, November 15, 2011 – 9:00 a.m. – Room C445 State Capitol

**Members Present:**

Sen. Howard A. Stephenson, Senate Chair  
Rep. Curtis Oda, House Chair  
Sen. Gene Davis  
Sen. Mark B. Madsen  
Sen. Benjamin M. McAdams  
Rep. Neal B. Hendrickson  
Rep. Carol Spackman Moss  
Rep. Merlynn T. Newbold

**Members Absent:**

Pres. Michael G. Waddoups  
Speaker Rebecca D. Lockhart

**Staff Present:**

Mr. Arthur L. Hunsaker, Policy Analyst  
Ms. Esther Chelsea McCarty, Associate General Counsel  
Ms. Tracey Fredman, Legislative Secretary

**Note:** A list of others present, a copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov).

**1. Committee Business**

Chair Stephenson called the meeting to order at 9:21 a.m. and excused Pres. Waddoups and Speaker Lockhart.

**MOTION:** Sen. Davis moved to approve the minutes of the November 1, 2011 meeting. The motion passed unanimously. Sen. Madsen was absent for the vote.

**2. State Auditor Finding of Human Resource Management Rule and Policy Violations by the Department of Technology Services**

Mr. Austin Johnson, State Auditor, briefed committee members on the word "occurrence" in Administrative Rule R477-6-5(1)(b), which he indicated was interpreted by the auditor to mean an event that would result in an incentive award or bonus. He said that because two payments had been made for two consecutive months to one person, it appeared as though the Department of Technology Services (DTS) had circumvented the limits which allow one incentive award or bonus per occurrence.

Ms. Debbie Empey, Audit Director, State Auditor's Office, responded to questions from the Committee.

Mr. Jeff Herring, Executive Director, Department of Human Resource Management (DHRM), distributed "R477-6-5 Incentive Awards," and indicated that the word "occurrence" in Administrative Rule R477-6-5(1)(b), is interpreted by DHRM to mean a pay period.

There was committee discussion about the reasons incentive awards and bonuses are awarded, the limitations of incentive awards, and whether clarifications to "Utah Code Section 67-19-12 State Pay Plans" should be considered.

**MOTION:** Rep. Newbold moved to place "R477-6-5 Incentive Awards" on the sunset list for the 2012 General Session. The motion passed unanimously. Sen. Davis was absent for the vote.

**3. R277-484 Data Standards**

Ms. Robyn Ellis, Director, and Mr. Steven Whitehouse, Chief Financial Officer and Board Member, Karl G. Maeser Preparatory Academy (Academy), distributed "Karl G. Maeser Preparatory Academy: Administrative Rules Committee Meeting, November 15, 2011." Mr. Whitehouse indicated that special education funding to the Academy for FY 2012 has been reduced significantly by the Utah State Office of Education (USOE) as the result of an incorrect data report caused by a software error. Mr. Whitehouse briefed committee members on the error that was found and reported in July 2011, the Academy's request that the report be amended and corrected, and the response from the Academy's contacts at the USOE who indicated that making amendments to the data was not possible.

Mr. Whitehouse said the Academy is requesting the correction of the data to reflect the actual number of students with disabilities enrolled and attending the Academy rather than the data numbers that are inaccurate.

Mr. Martell Menlove, Deputy Superintendent of Public Education, commented on the issues of integrity of data, the need for deadlines, and the complications associated with adjusting or correcting data. Mr. Menlove said he did not believe the administrative process was exhausted before the issue was brought to the Committee.

Mr. Todd Hauber, Associate Superintendent of Public Education, said that because the error was found in the area of special education, federal Maintenance of Efforts requirements were a concern. Mr. Hauber explained that the USOE determined that the best way to assist the Academy in understanding the seriousness of the situation was to hold a preemptive hearing in the manner of a Maintenance of Efforts hearing. Mr. Hauber stated that there has always been the opportunity for the charter school to speak with the superintendent and express concern.

Mr. Menlove offered to use the most accurate data available for the current year to calculate funding to the Academy, resulting in no budgetary impact on the Academy. Mr. Menlove asked that as this exception is made for the Academy, the USOE requests that in the future, the Academy submit report data earlier than the deadline to allow time for review and corrections if necessary.

Committee discussion followed and Mr. Whitehouse, Ms. Ellis, Mr. Menlove and Mr. Hauber responded to committee members' questions.

Sen. Stephenson noted that under the statute, the Charter School Board is expected to mentor, advise, and work as advocates for the charter schools they oversee, and suggested that if it had been doing that, this situation might have been avoided. Sen. Stephenson also expressed concern for the software which has caused two schools in Utah to have incorrect data submitted on a report.

No action was taken on this issue.

#### **4. Committee Business**

Staff distributed a letter dated November 14, 2011 from Mr. David Buhler, Associate Commissioner for Public Affairs, Utah System of Higher Education, to the Administrative Rules Review Committee. Staff also distributed "Regents' Scholarship Report to the Administrative Rules Oversight Committee," "Regents' Scholarship Estimated Application Timeline and Review Process for 2011 High School Graduates," and "R765-609 Regents' Scholarship."

Sen. Stephenson noted that some applicants for the Regents' Scholarship contacted the committee chairs because they had been denied scholarships due to technicalities. Sen. Stephenson indicated that the issue may be presented at a future meeting and referred committee members to the handouts for further information.

Future meetings were scheduled for December 5, 2011, at 9:00 a.m. and December 21, 2011, at 9:00 a.m.

#### **5. Adjourn**

**MOTION:** Rep. Hendrickson moved to adjourn the meeting. The motion passed unanimously. Sen. Davis was absent for the vote.

Chair Stephenson adjourned the meeting at 11:30 a.m.